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In re Application of
HASLING
U.S. Application No.: 09/831,057
PCT No.: PCT/GB99/03574
Int. Filing Date: 28 October 1999
Priority Date: 06 November 1998
Atty Docket No.: 516.007USU
For: POLYMERISABLE SURFACTANTS

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.47(b)

This decision is in response to applicant's "Renewed Petition Under 37 CFR 1.47 (b)" filed 10 December 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 10 May 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(b). Applicant was afforded two months to file any request for reconsideration and advised that extensions of time were available pursuant to 37 CFR 1.136(a).

On 10 December 2002, applicant filed the present renewed petition accompanied by a request for a five-month extension of time and payment of the appropriate extension fee. With the filing of the request for a five-month extension, payment of fee and certification that the papers were deposited for mailing on 26 February 2002, the response is considered to be timely filed.

DISCUSSION

As detailed in the decision mailed 10 May 2002, a petition under 37 CFR 1.47(b) must be accompanied by: (1) the requisite petition fee under 37 CFR 1.17(I); (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the non-signing inventor; (4) an oath or declaration executed by the 37 CFR 1.47(b) applicant on behalf of and as an agent for the non-signing inventor; (5) proof of proprietary interest in the application; and, (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damages. Applicant previously satisfied items (1), (3), (5) and (6).

Regarding item (2) above, applicant has presently provided a declaration from an individual (Ms. Joanne A. RomanIELLO) with first-hand knowledge that inventor Hasling has been

presented with a complete set of application papers and a declaration for execution and has yet to execute said declaration. As such, applicant has satisfied item (2).

As to item (4), the declaration which accompanied the renewed petition is not in compliance with 37 CFR 1.497. Specifically, the declaration does not contain the statement required by 37 CFR 1.497(a)(4) that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought. In addition, 37 CFR 1.63(b)(2) requires that the declaration state that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendments specifically referred to in the oath or declaration.

As the filed declaration is not acceptable, it is not possible to grant applicant's renewed petition at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.47(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mailing date of this decision. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(b)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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